

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.) CAUSE NO.: 2:15-CR-134-JTM-PRC
)
JOSE M. DURAN-HERNANDEZ,)
Defendant.)

**FINDINGS AND RECOMMENDATION OF THE MAGISTRATE JUDGE
UPON PLEA OF GUILTY BY DEFENDANT JOSE M. DURAN-HERNANDEZ**

TO: THE HONORABLE JAMES T. MOODY,
UNITED STATES DISTRICT COURT

Upon Defendant Jose M. Duran-Hernandez's request to enter a plea of guilty pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter came for hearing before Magistrate Judge Paul R. Cherry, on January 6, 2016, with the consent of Defendant Jose M. Duran-Hernandez, counsel for Defendant Jose M. Duran-Hernandez, and counsel for the United States of America.

The hearing on Defendant Jose M. Duran-Hernandez's plea of guilty was in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge in open court and on the record.

In consideration of that hearing and the statements made by Defendant Jose M. Duran-Hernandez under oath on the record and in the presence of counsel, the remarks of the Assistant United States Attorney and of counsel for Defendant Jose M. Duran-Hernandez,

I FIND as follows:

(1) that Defendant Jose M. Duran-Hernandez understands the nature of the charge against him to which the plea is offered;

(2) that Defendant Jose M. Duran-Hernandez understands his right to trial by jury, to persist in his plea of not guilty, to the assistance of counsel at trial, to confront and cross-examine adverse witnesses, and his right against compelled self-incrimination;

(3) that Defendant Jose M. Duran-Hernandez understands what the maximum possible sentence is, including the effect of the supervised release term, and Defendant Jose M. Duran-Hernandez understands that the sentencing guidelines apply and that the Court may depart from those guidelines under some circumstances;

(4) that the plea of guilty by Defendant Jose M. Duran-Hernandez has been knowingly and voluntarily made and is not the result of force or threats or of promises;

(5) that Defendant Jose M. Duran-Hernandez is competent to plead guilty;

(6) that Defendant Jose M. Duran-Hernandez understands that his answers may later be used against him in a prosecution for perjury or false statement;

(7) that there is a factual basis for Defendant Jose M. Duran-Hernandez's plea; and further, I RECOMMEND that the Court accept Jose M. Duran-Hernandez's plea of guilty to the offense charged in Count I of the Indictment and that Defendant Jose M. Duran-Hernandez be adjudged guilty of the offense charged in Count I of the Indictment and have sentence imposed. A Presentence Report has been ordered. Should this Report and Recommendation be accepted and Jose M. Duran-Hernandez be adjudged guilty, a sentencing date before Judge James T. Moody will be set by separate order. Objections to the Findings and Recommendation are waived unless filed and served within fourteen days. 28 U.S.C. § 636(b)(1).

SO ORDERED this 6th day of January, 2016.

s/ Paul R. Cherry

MAGISTRATE JUDGE PAUL R. CHERRY
UNITED STATES DISTRICT COURT